

Floodplain and Drainage Advisory Committee

September 20, 2011 Meeting Notes

Mr. Piorko began the presentation by welcoming all. Each Committee member as well as DNREC employees and its contractor introduced themselves. Fourteen Committee members were present. It was noted that some members still had not been appointed by their host agency.

Mr. Piorko gave a brief overview of Senate Bill 64. He noted that the Committee has been tasked with evaluating issues and making recommendations to the Secretary. These could range from “do nothing” to regulatory changes. These recommendation will be distributed to local governments State-wide for review and comment regarding hardships or impediments to implementation. The final report will be delivered to the General Assembly before March 15, 2013.

Mr. Baird asked if the recommendations would be legislative or regulatory. Mr. Piorko said they would not be legislative but may be regulatory.

Mr. Cahall and Mr. Powell each gave summaries of recurring issues regarding drainage and floodplains respectively.

Mr. Riemann inquired about the accuracy of FEMA flood maps. He asked if there is anything that says DNREC or FEMA or anybody is supposed to update the maps to which Mike Powell responded “Yes”. Mr. Riemann then asked who the lead agency is to get that started. Mike Powell said there have been regulations in all three counties in Delaware since the 1970s. There is a threshold above which a developer is required to do a flood study if one does not exist and the local jurisdiction is responsible to make those changes or amendments or whatever is necessary. It falls back to the developer.

Mr. D’Anna stated that a government agency should be providing accurate flood mapping.

Mr. Collins asked who was responsible for accurate flood mapping (FEMA, DNREC). He further said that regulations already exist that require flood studies for large subdivisions where the mapping is poor. It was pointed out that threshold is 50 lots or 5 acres. Mr. Chau stated that the state of Maryland recently changed their regulations to 5 lots or 5 acres.

Mr. Collins said he could not understand how people are still getting into trouble in the modern age and was told that current regulations assume accurate data exists. Also, FEMA has higher insurance rates for properties within Zone A. Mr. Collins acknowledged the many practitioners on the Committee as expertise is needed.

Mr. D'Anna asked if anyone flags elevations after storm events. Mr. Powell said that DNREC has done some high watermark surveys following storms but there is not enough staff to do comprehensive assessments. USGS came to DNREC about 48 hours prior to Irene with 70 devices to flag along the coast. Mr. Cahall stated that after big storms DNREC tries to document as much as they can and a couple of surveys were done after Irene.

Mr. Morrill said that there are no regulations regarding elevations of properties in Zone A and there is a disconnect with available data. He asked if 17% of State lands are in a floodplain, how much of those lands have no BFEs (base flood elevations). Mr. Powell responded that the 17% figure includes tidal marshes but that there are several hundred miles of mapped rivers and streams with no BFEs.

Mr. Riemann asked if more detailed mapping was to be done, would properties be taken out of mapped floodplains or would more properties be put into the floodplain. Mr. Powell referred to some floodplain mapping slides that show a floodplain area before and after detailed remapping and indicated that typically some properties are added to a floodplain and some are taken out of the floodplain as the result of remapping.

Mr. Collins noted that most issues are "pre-FIRM" which new regulations would not be able to address. He also said that banks require flood insurance before granting loans for properties in mapped floodplains. Mr. Powell said he has received calls from homeowners after settlement stating that their lending institution is now requiring them to get flood insurance even though their loan was previously approved without insurance.

Mr. Benton stated that there are a lot of data sources including DelDOT, DNREC, FEMA, conservation districts, and developers and asked who was the "keeper" of studies. He said some FEMA maps are 30 years old and better communication between agencies was needed. Mr. Piorko responded that that same issue had been discussed by the Governor's Task Force in 2005, some communication was occurring, and that DNREC had previously undertaken a database inventory of H&H studies. Mr. Cahall recognized that each agency often has their own standards which could complicate data sharing. Mr. Jones noted that not only are standards often different but a variety of computer programs are available as well.

Mr. Riemann said that parameters to define who can build in floodplains and who cannot are needed. Mr. Garcia said that some drainage issues do not have a floodplain component associated with them to which Mr. Cahall reiterated an earlier statement that there are really two issues; drainage and flooding.

Mr. Mott recognized that even well constructed tax ditches are designed for drainage purposes and not for the 100-year storm event. Mr. Piorko pointed out that tax ditches are typically overtopped in a 2-year to 10-year storm event.

Mr. D'Anna said that drainage is essentially a land planning issue. He worked as a planner for New Castle County many years ago and provisions for drainage in the Code

were in existence then. He said government agencies should be reviewing lines and grades plans.

Mr. Collins believed that clarity was needed regarding what was being talked about. He said that development in floodplains is already forbidden by New Castle and Kent Counties and believes data being presented shows that government is not doing its job.

Mr. Athey presented expenditures resulting from shortfalls in current standards and he and Ms. Tonn discussed definitions and terminology that Committee members will likely be using.

Mr. Jones noted that in addition to a definition of 100-year storm event, discussion was needed regarding rainfall distribution, as a heavy but brief 10-year storm event, for example, could result in as high or higher a rate of runoff than a lighter, lengthier 100-year storm event. Mr. Athey acknowledged this but said that level of detail would be better addressed at a future meeting. Mr. Cahall said that a 100-year storm event does not always result in a 100-year flood. Mr. Athey acknowledged that there are many variables.

Mr. Cahall and Mr. Powell presented DNREC's roles in drainage and floodplain management and Mr. Athey gave an overview of others' roles including Federal agencies, DelDOT, counties, municipalities, and conservation districts.

Mr. Cahall and Mr. Powell concluded by summarizing DNREC's Top Ten issues. Mr. Piorko said that education should be added to the Top Ten list.

Mr. D'Anna said that the game plan presented is totally regulatory driven and more information beyond standards was needed such as where work has been done. He said studies and maps needed to be rationalized. Mr. Piorko asked not to confuse standards with regulations. Mr. Collins wanted to know who the standards would be for and how this Committee's work fit into the pending update to the State Sediment and Stormwater Regulations and was told by Mr. Piorko that specifics such as lot grades were not being addressed by those Regulations. He said that George Haggerty of New Castle County presented the County's requirements to the General Assembly with an acknowledgment that those requirements add "x" to the cost of a new house.

Mr. Mott asked if the Committee would be discussing roadblocks from agencies such as EPA and USACE and was told that Senate Bill 64 includes emergency provisions.

The path forward and future meetings were discussed and the meeting adjourned at approximately 11:30.